

1 PETER P. EDRINGTON, Esq. (074355)  
 2 JAMES M. MARZAN, Esq. (133931)  
 3 EDRINGTON, SCHIRMER & MURPHY  
 4 2300 Contra Costa Boulevard, Suite 450  
 Pleasant Hill, CA 94523-3936  
 Telephone: (925) 827-3300  
 Facsimile: (925) 827-3320

5 Attorneys for Defendant  
 6 FREMONT UNIFIED SCHOOL DISTRICT

7

8 UNITED STATES DISTRICT COURT

9 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

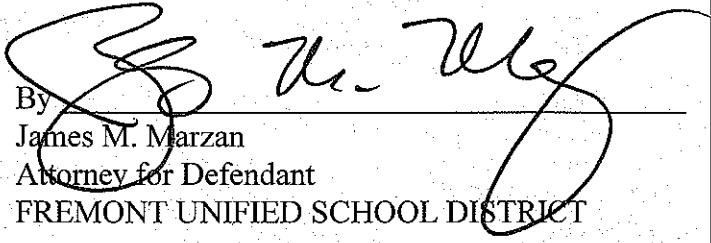
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 11 LUANNE HESS, ) CASE NO.: C-08-02400 JSW  
 12 Plaintiff, )  
 13 vs. )  
 14 FREMONT UNIFIED SCHOOL DISTRICT, ) AMENDED NOTICE OF MOTION AND  
 a public entity, ) MOTION TO STAY ACTION PENDING  
 15 ) RESOLUTION OF CLAIMS PENDING IN  
 16 Defendant. ) CONCURRENT STATE ACTIONS  
 17 )  
 18 ) Date: January 9, 2008  
 19 ) Time: 9:00 a.m.  
 20 ) Courtroom: 2, 17<sup>th</sup> Floor

21 TO PLAINTIFF, LUANNE HESS, AND TO HER ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on **January 9, 2009**, at **9:00 a.m.** or as soon thereafter as  
 the matter may be heard in **Courtroom 2, 17<sup>th</sup> Floor** of the above-entitled Court, located at **450**  
**Golden Gate Avenue, San Francisco**, defendant, FREMONT UNIFIED SCHOOL DISTRICT  
 23 will and herby does move the Court to stay further proceedings in this case pending resolution of  
 24 claims pending in concurrent State court actions which involve the identical parties, facts and  
 25 circumstances. Grounds for the motion will be based on the court's interests in wise judicial  
 26 administration to stay the action where similar state actions are pending to avoid inconsistent  
 27 rulings, piecemeal litigation and conserve judicial resources.

1 This motion will be based on this notice of Motion and Motion, the Memorandum of  
2 Points and Authorities filed herewith and on the Declaration of James M. Marzan in Support of the  
3 Motion.

4 DATED: September 3, 2008 EDRINGTON, SCHIRMER & MURPHY

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6 By \_\_\_\_\_  
7 James M. Marzan  
8 Attorney for Defendant  
9 FREMONT UNIFIED SCHOOL DISTRICT

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Hess v. Fremont Unified School District – C08-02399 JSW; C08-02400 JSW; C08-02401 JSW

**PROOF OF SERVICE**

I am a citizen of the United States. My business address is 2300 Contra Costa Boulevard, Suite 450, Pleasant Hill, CA 94523. I am employed in the County of Contra Costa where this service occurs. I am over the age of 18 years and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On September 3, 2008, following ordinary business practice, I served the attached document(s) described as **AMENDED NOTICE OF MOTION AND MOTION TO STAY ACTION PENDING RESOLUTION OF CLAIMS PENDING IN CONCURRENT STATE ACTIONS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT; DECLARATION OF JAMES M MARZAN; [PROPOSED ORDER]** on the interested parties in said action addressed as follows:

JOHN N. KITTA, Esq.  
A. K. ABRAHAM, ESQ.  
JOHN N. KITTA & ASSOCIATES  
39560 Stevenson Place, Suite 217  
Fremont, CA 94536

T: 510-797-7990  
F: 510-745-8606

CHARLES G. WILLIAMS, ESQ.  
4910 Seneca Park Loop  
Fremont, CA 94538  
T: 510-659-1953

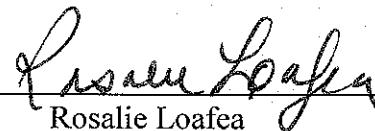
       (BY FACSIMILE) by transmitting via facsimile the document(s) listed above to the facsimile number(s) set forth above, or as stated on the attached service list, on this date before 5:00 p.m.

X (BY MAIL) by placing a true and correct copy of the document(s) listed above enclosed in sealed envelope(s) with postage fully prepaid in the U.S. Mail at Pleasant Hill, California.

       (BY PERSONAL SERVICE) by placing a true and correct copy of the document(s) listed above in sealed envelope(s) and causing said envelope(s) to be delivered by hand this date to the offices of the addressee(s).

       (BY OVERNIGHT DELIVERY) by placing a true and correct copy of the document(s) in a sealed envelope(s) and causing said envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 3, 2008, at Pleasant Hill, California.

  
Rosalie Loafea